

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

FRANKLIN MARSHALL,

Plaintiff,

9:22-cv-674 (BKS/DJS)

v.

ANTHONY ANNUCCI, et al.,

Defendants.

Appearances:

Plaintiff Pro Se:

Franklin Marshall
19-B-0368
Collins Correctional Facility
P.O. Box 340
Collins, NY 14034

For Defendants:

Letitia James
Attorney General of the State of New York
Amanda K. Kuryluk
Noah C. Engelhart
Assistant Attorney General, of Counsel
The Capitol
Albany, New York 12224

Hon. Brenda K. Sannes, Chief United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Franklin Marshall commenced this civil rights action asserting claims under 42 U.S.C. § 1983 arising out of his incarceration in the custody of the Department of Corrections and Community Supervision. (Dkt. No. 1). On December 15, 2023, Defendants filed a motion for summary judgment under Fed. R. Civ. P. 56(a) seeking to dismiss the complaint in its entirety. (Dkt. No. 34). Although the Court, sua sponte, gave Plaintiff an extension of time to

file, Plaintiff did not file a response. (Dkt. No. 37). This matter was assigned to United States Magistrate Judge Daniel J. Stewart who, on April 1, 2024, issued a Report-Recommendation and Order recommending that Defendants' motion for summary judgment be granted based on Plaintiff's failure to exhaust administrative remedies and the lack of personal involvement of Defendant Annucci. (Dkt. No. 38). Magistrate Judge Stewart advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report and that the failure to object to the report within fourteen days would preclude appellate review. (Dkt. No. 38, at 14).

There were no objections to the Report-Recommendation. As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation is adopted in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation, (Dkt. No. 38), is **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion for summary judgment (Dkt. No. 34) is **GRANTED**; and it is further


ORDERED that the Complaint is **DISMISSED**; and it is further

ORDERED that the Clerk of the Court is directed to close this case; and it is further

ORDERED that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: April 26, 2024
Syracuse, New York


Brenda K. Sannes
Chief U.S. District Judge